

REMARKS

A Non-Final Office Action dated June 14, 2005 rejected pending claims 1,8, 9, 19, 24, 25, 33, 34, 44, and 47 under 35 U.S.C. § 112, second paragraph. The foregoing claims are currently amended to correct the cited deficiencies and are therefore now in allowable form. The Office Action rejected claims 1-7, 9-10, 19-23, 25-33, 35-40, 42-51, and 53-54 under 35 U.S.C. § 103(a). This response fully addresses claim the rejections under 35 U.S.C. § 103(a) by showing that a cited reference (Newell) is not prior to the priority date of the current application and therefore it cannot be used in any 35 U.S.C. § 103(a) rejection. Applicant therefore respectfully asserts that the claims are now allowable over the cited art.

REJECTIONS UNDER § 112

In the June 14, 2005 Office Action, claims 8, 9, 24, 25, 33 and 34 are rejected under 35 U.S.C. § 112, second paragraph. These claims are currently amended to overcome the rejections under 35 U.S.C. § 112, second paragraph. Applicants therefore respectfully assert that these claims are now in condition for allowance.

REJECTIONS UNDER § 103

In the Office Action, dated, June 14, 2005, pending claims 1-7, 9-10, 19-23, 25-33, 35-40, 42-51, and 53-54 were rejected under 35 U.S.C. § 103(a) as being unpatentable over Crosby (US Patent 6,628,928) and, undoubtedly inadvertently, further in view of Newell et al. ("Newell") (US Patent 6,895,238). Applicants respectfully submit that Newell cannot be cited as a prior art reference. Newell's earliest priority date is March 30, 2001, and the current application's earliest priority date is March 29, 2001. The application properly claims benefit under 35 U.S.C. § 119(e) to a provisional application filed March 29, 2001. The effective filing date is the filing date of the provisional application. (Provisional Application No. 60/280,375,

filed March 29, 2001). MPEP 706.02. Therefore Applicants have perfected priority and the rejection based on Newell under 35 U.S.C. § 103(a) should be withdrawn; placing all claims in condition for allowance.


25315

CUSTOMER NUMBER

- 21 -

INTL-1-1016ROA04

BLACK LOWE & GRAHAM^{PLLC}


701 Fifth Avenue, Suite 4800
Seattle, Washington 98104
206.381.3300 • F: 206.381.3301



CONCLUSION

In view of the above amendments and remarks, Applicants have amended claims 8, 9, 24, 25, 33 and 34 and Applicants respectfully assert that these claims are in condition for allowance. Further, Applicants respectfully state that claims 1-7, 9-10, 19-23, 25-33, 35-40, 42-51, and 53-54 are in condition for allowance, because Newell is an improper prior art reference. Further, Applicants submit that claims 8, 24, 34, 41, and 52 are not obvious in view of Crosby in view of Newell, and in further view of Treyz *et. al* for the same reasons as stated above. Applicants accordingly submit that all claims are in condition for allowance.

Respectfully submitted,

BLACK LOWE & GRAHAM^{PLLC}

Christopher T.L. Douglas
Registration No. 56,950
Direct Dial: 206.957.2471

EXPRESS MAIL CERTIFICATE

I hereby certify that this communication is being deposited with the United States Postal Service via Express Mail No. **EV509173381US** under 37 C.F.R. § 1.10 on the date indicated below addressed to: Commissioner for Patents, P.O. Box 1450, Alexandria, VA 22313-1450.

September 14, 2005

Date of Deposit

Myla Kent